

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

In re:)	Case No. 20-10049-TPA
)	Chapter 11
TRI-STATE PAIN INSTITUTE, LLC,)	
Debtor)	Related to Doc. Nos. 642 and 662

In re:)	Case No. 20-10334-TPA
)	Chapter 11
JOSEPH M. THOMAS, M.D.,)	
Debtor)	Related to Doc. Nos. 470 and 482

In re:)	Case No. 21-10118-TPA
)	Chapter 11
2374 VILLAGE COMMON DRIVE, LLC,)	
Debtor)	Related to Doc. Nos. 159 and 163

**JOINT STIPULATION AND AGREED ORDER BY AND BETWEEN WELLS FARGO
BANK NATIONAL ASSOCIATION, THE OFFICIAL CREDITORS' COMMITTEE
FOR TRI-STATE PAIN INSTITUTE, LLC, TRI-STATE PAIN INSTITUTE, LLC, DR.
JOSEPH M. THOMAS., M.D., 2374 VILLAGE COMMON DRIVE, LLC, AND
GREATER ERIE SURGERY CENTER**

AND NOW, comes the Official Creditors' Committee ("Committee") for Tri-State Pain Institute, LLC, by and through the Committee's counsel, Knox McLaughlin Gornall & Sennett, P.C., Tri-State Pain Institute, LLC ("Tri-State"), by and through its counsel, Marsh Schaaf, LLP, Joseph M. Thomas, M.D. ("Dr. Thomas"), by and through his counsel, Quinn, Buseck, Leemhuis, Toohey, & Kroto, Inc., 2374 Village Common Drive, LLC ("2374"), by and through its counsel Quinn, Buseck, Leemhuis, Toohey, & Kroto, Inc., Greater Erie Surgery Center ("Greater Erie"), and Wells Fargo Bank National Association ("Wells Fargo"), by and through its counsel, Bernstein-Burkley, P.C. hereby file this Joint Stipulation and Agreed Order ("Stipulation") and state the following:

1. Subject to Court approval, the parties have conferred in good faith for purposes of reaching an agreement regarding the secured status of Wells Fargo following the sale of the 2374 Village Common Drive properties and the extent and value of the remaining assets in which Wells Fargo holds a valid security interest. The proposed terms are as follows:

(a) This is a final stipulation.

(b) Within five (5) business days of this Court's approval of this Stipulation, Greater Erie, the affiliated, non-Debtor entity, Tri-State, and/or 2374 will pay Wells Fargo the sum of \$200,000 made payable via certified check or wire transfer to "Wells Fargo National Association."

(c) Per this Court's Orders dated June 23, 2021 (Doc. No. 628) and June 24, 2021 (Doc No. 631), Tri-State will continue to pay Wells Fargo \$5,000 a month until this Stipulation is approved, at which time the payments shall cease.

(d) Within fifteen (15) business days of confirmation of Tri-State's Plan of Reorganization ("Plan"), Greater Erie, Tri-State, and/or 2374 will pay Wells Fargo a combined amount of \$400,000 made payable via certified check or wire transfers to "Wells Fargo National Association".

(e) Tri-State will pay Wells Fargo the sum of \$650,000 pursuant to the terms of a certain post-confirmation loan ("Wells Fargo Post-Confirmation Loan"), payable at 4.5% interest with a 10-year amortization and a 5-year balloon, and other standard loan terms. The Wells Fargo Post-Confirmation Loan shall be secured by a blanket lien on all of Tri-State's assets. The Post-Confirmation Loan Documents will be executed fully on or before the time of Tri-State's Plan confirmation order being final.

(f) Provided that Tri-State is not in default of any of the payment terms of the Wells Fargo Post-Confirmation Loan documents, if, on or before January 15, 2023, Tri-State pays Wells Fargo the sum of \$450,000 in principal payments, the Wells Fargo Post-Confirmation Loan will be deemed satisfied regardless of the amounts to be set forth in Wells Fargo's amended proof of claim.

(g) Provided that Tri-State is not in default of any of the payment terms of the Wells Fargo Post-Confirmation Loan documents, if, on or before December 15, 2023, Tri-State pays Wells-Fargo the sum of \$500,000 in principal payments, the Wells Fargo Post-Confirmation Loan will be deemed satisfied regardless of the amounts to be set forth in Wells Fargo's amended proof of claim.

(h) Provided that Tri-State is not in default of any of the payment terms of the Wells Fargo Post-Confirmation Loan documents, if, on or before November 15, 2024, Tri-State pays Wells-Fargo the sum of \$550,000 in principal payments, the Wells Fargo Post-Confirmation Loan will be deemed satisfied regardless of the amounts to be set forth in Wells Fargo's amended proof of claim.

(i) Wells Fargo will waive any unsecured claim against Tri-State. This Stipulation shall not affect any unsecured claim of Wells Fargo against Dr. Thomas. Wells Fargo will continue to hold an unsecured claim against Dr. Thomas' estate.

(j) Dr. Thomas' individual Chapter 11 Plan shall provide that:

- (i) Wells Fargo shall be paid its pro rata share of any distribution to the unsecured creditors;
- (ii) The amount paid to Wells Fargo shall be at least \$50,000 regardless of the amount paid to the other unsecured creditors;
- (iii) In the event that the Dr. Thomas case is dismissed, Dr. Thomas agrees to pay \$50,000 to Wells Fargo to be amortized and paid without interest prior to the fifth (5th) anniversary of the date this

Stipulation is approved with credit for any amounts paid to Wells Fargo on its unsecured claim prior to dismissal; and

(iv) In the event that this case is converted to Chapter 7, Wells Fargo shall only receive its pro rata share of any distribution to the unsecured creditors at large.

(k) Wells Fargo will amend its Proof of Claim in the Tri-State and Dr. Thomas cases, which shall provide the accounting of its outstanding claim as requested by Attorney Skiba, including credit for all payments received from any source.

(l) Upon Greater Erie's surrender and Wells Fargo's ultimate sale of the Greater Erie equipment that remains in the former Tri-State building located at 2374 Village Common Drive, Erie, PA (the "Greater Erie Residual Equipment), Wells Fargo shall provide Tri-State with a \$15,000 credit against the principal of the Wells-Fargo Post-Confirmation Loan.

(m) The Greater Erie C-arms will be assigned to Tri-State and be subject to Wells Fargo's security interest until the Wells Fargo Post-Confirmation Loan is paid in full.

(n) Wells Fargo will vote in favor of the Tri-State and Dr. Thomas Plans of Reorganization **provided that** Tri-State, Greater Erie, 2374, and Dr. Thomas are not in breach of any payment terms of this Stipulation.

(o) The terms of this Stipulation will be incorporated in their entirety into the Tri-State and Dr. Thomas Plans of Reorganization.

(p) Upon the payment of the \$200,000 and \$400,000 referenced in Paragraph (1)(b) and (1)(d) above, Wells Fargo will release Greater Erie as a co-borrower and/or guarantor on any and all debt owed to Wells Fargo.

2. Upon payment of the amounts set forth above, Wells Fargo shall be paid in full and have no further claim against Tri-State, Dr. Thomas, 2374, or Greater Erie.

3. The parties agree to sign any and all documents necessary to implement the foregoing.

STIPULATED TO BY:

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*With special authorization from Greater Erie
Surgery Center*

SO ORDERED

Dated: _____

Thomas P. Agresti, Judge
United States Bankruptcy Court